



4410-15

NOTICE

DEPARTMENT OF JUSTICE

NOTICE OF LODGING OF PROPOSED THIRD PARTIAL CONSENT DECREE UNDER THE CLEAN AIR ACT

On January 11, 2017, the Department of Justice lodged a proposed Third Partial Consent Decree with the United States District Court for the Northern District of California in the lawsuit entitled *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, Case No: MDL No. 2672 CRB (JSC), partially resolving Clean Air Act claims against Volkswagen Group of America, Inc., and others, concerning certain noncompliant 2.0 and 3.0 liter diesel vehicles.

On January 4, 2016, the United States, on behalf of the Environmental Protection Agency (“EPA”), filed a complaint against Volkswagen AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, and Audi AG (the “VW Defendants”), and Dr. Ing. h.c. F. Porsche AG, and Porsche Cars North America, Inc. (the “Porsche Defendants”) alleging that the defendants violated Sections 203(a)(1), (2), (3)(A), and (3)(B) of the Clean Air Act (“Act”), 42 U.S.C. §§ 7522(a)(1), (2), (3)(A), and (3)(B), with regard to approximately 500,000 model year 2009 to 2015 motor vehicles containing 2.0 liter diesel engines (2.0 Liter Subject Vehicles) and approximately 80,000 model year 2009 to 2016 motor vehicles containing 3.0 liter diesel engines (3.0 Liter Subject Vehicles). An amended complaint was filed on October 7, 2016. The United States’ complaint (initial and as amended) alleges that each 2.0 and 3.0 Liter Subject Vehicle contains computer algorithms that are prohibited defeat devices that cause the emissions control system of those vehicles to perform differently during normal vehicle operation and use than during emissions testing. The complaint alleges that the

defeat devices cause the vehicles, during normal vehicle operation and use, to emit levels of oxides of nitrogen (“NOx”) significantly in excess of EPA-compliant levels. The complaint seeks, among other things, injunctive relief to remedy the violations, including mitigation of excess NOx emissions, and civil penalties.

The proposed Third Partial Consent Decree (“Decree”) is entered into between the United States and all defendants. This Decree addresses defendants’ liability under the Clean Air Act for civil penalties and injunctive relief to prevent similar violations in the future. Under the Decree, the Defendants must pay a civil penalty of \$1,450,000,000, with interest running from the date of lodging, which resolves the civil penalty claims of both EPA and, pursuant to a separate agreement, U.S. Customs and Border Protection.

The VW Defendants and the Porsche Defendants are also each required to undertake a number of specific corporate governance reforms and to perform in-use testing of their vehicles using a portable emissions measurement system. In addition, the VW Defendants must retain an independent compliance auditor for a three-year period to review the VW Defendants’ compliance with the Decree.

The publication of this notice opens a period for public comment on the Third Partial Consent Decree. Comments concerning the Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, Case No: MDL No. 2672 CRB (JSC), and D.J. Ref. No. 90-5-2-1-11386.

All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
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By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

The Third Partial Consent Decree may be viewed and downloaded from <http://www.cand.uscourts.gov/crb/vwmdl>. During the public comment period, the Decree may also be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Third Partial Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$20.75 (25 cents per page reproduction cost) payable to the United States Treasury.

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